

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED ON ANY PARTY NOT REPRESENTED BY COUNSEL UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV/](http://www.ca2.uscourts.gov/)). IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a stated term of the United States Court of Appeals
for the Second Circuit, held at the Daniel Patrick Moynihan
United States Courthouse, 500 Pearl Street, in the City of
New York, on the 21st day of December, two thousand nine.

PRESENT:

JOSEPH M. McLAUGHLIN,
JOSÉ A. CABRANES,
RICHARD C. WESLEY,
Circuit Judges.

WU GUANG CHEN,
Petitioner,

v.

ERIC H. HOLDER, JR.,¹
Respondent.

08-0046-ag
NAC

¹ Pursuant to Federal Rule of Appellate Procedure 43(c)(2), Attorney General Eric H. Holder, Jr., is automatically substituted for former Attorney General Michael B. Mukasey as respondent in this case.

1 **FOR PETITIONER:** **Thomas V. Massucci, New York, New**
2 **York.**

3
4 **FOR RESPONDENT:** **Gregory G. Katsas, Assistant**
5 **Attorney General, James E. Grimes,**
6 **Senior Litigation Counsel, Scott**
7 **Rempell, Attorney, Office of**
8 **Immigration Litigation, United**
9 **States Department of Justice,**
10 **Washington, D.C.**

11
12 UPON DUE CONSIDERATION of this petition for review of a
13 Board of Immigration Appeals ("BIA") decision, it is hereby
14 ORDERED, ADJUDGED, AND DECREED, that the petition for review
15 is DENIED.

16 Wu Guang Chen, a native and citizen of the People's
17 Republic of China, seeks review of the December 7, 2007
18 order of the BIA, affirming the December 20, 2005 decision
19 of Immigration Judge ("IJ") Phillip L. Morace, which denied
20 his application for asylum, withholding of removal, and
21 relief under the Convention Against Torture ("CAT"). *In re*
22 *Wu Guang Chen*, No. A073 611 549 (B.I.A. Dec. 7, 2007), *aff'g*
23 No. A073 611 549 (Immig. Ct. N.Y. City Dec. 20, 2005). We
24 assume the parties' familiarity with the underlying facts
25 and procedural history in this case.

26 Under the circumstances of this case, we review both
27 the BIA's and IJ's opinions. *See Yun-Zui Guan v. Gonzales,*

1 432 F.3d 391, 394 (2d Cir. 2005); *Yan Chen v. Gonzales*, 417
2 F.3d 268, 271 (2d Cir. 2005). The applicable standards of
3 review are well-established. See *Yanqin Weng v. Holder*, 562
4 F.3d 510, 513 (2d Cir. 2009).

5 Substantial evidence supports the agency's adverse
6 credibility determination. The IJ reasonably found that:
7 (1) Chen's testimony was "very generalized, lacking in
8 details, [and] that he [was] very much detached from his own
9 claim," particularly given Chen's testimony that he never
10 intended to file an asylum application when came to the
11 United States; (2) although Chen testified before an asylum
12 officer that he was detained by family planning officials
13 for nine months because he failed to pay a fine, he made no
14 such assertion in his asylum application;² (3) Chen
15 testified implausibly when he claimed that, although his
16 wife had been in hiding for twelve years, during that time
17 she was able to obtain official documentation from the
18 Chinese government, including a marriage certificate,
19 household registrations, and birth certificates; and (4)

² We find no merit in Cheng's argument that the record of his asylum interview was unreliable. To the contrary, the IJ weighted that evidence carefully and reasonably assigned it probative weight. *Diallo v. Gonzales*, 445 F.3d 624, 632 (2d Cir. 2006).

1 there were inconsistencies both within Chen's testimony and
2 between his testimony and the documentary evidence that he
3 submitted regarding whether his marriage was registered.
4 While Chen offered explanations before the agency that were
5 responsive to each of these findings, the agency did not err
6 in rejecting them. *See Majidi v. Gonzales*, 430 F.3d 77, 80-
7 81 (2d Cir. 2005). We are similarly unpersuaded by the
8 arguments Chen makes in this Court.

9 Ultimately, substantial evidence supported the IJ's
10 adverse credibility determination. *See* 8 U.S.C.
11 § 1252(b)(4)(B); *Corovic v. Mukasey*, 519 F.3d 90, 95 (2d
12 Cir. 2008). Accordingly, the agency properly denied his
13 application for asylum and withholding of removal.³ *See*
14 *Paul v. Gonzales*, 444 F.3d 148, 155-56 (2d Cir. 2006); *Xue*
15 *Hong Yang v. U.S. Dep't of Justice*, 426 F.3d 520, 523 (2d
16 Cir. 2005). Chen does not challenge the agency's denial of
17 his application for CAT relief.

18 For the foregoing reasons, the petition for review is
19 DENIED. As we have completed our review, any stay of
20 removal that the Court previously granted in this petition

³ Because the adverse credibility determination is alone dispositive, we need not reach the agency's alternative burden findings.

1 is VACATED, and any pending motion for a stay of removal in
2 this petition is DISMISSED as moot. Any pending request for
3 oral argument in this petition is DENIED in accordance with
4 Federal Rule of Appellate Procedure 34(a)(2), and Second
5 Circuit Local Rule 34(b).

6 FOR THE COURT:
7 Catherine O'Hagan Wolfe, Clerk
8
9

10 By: _____